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EXAMINER
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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* WEI LU, BLAINE KUBESH, and JIANHUA XIE

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Appeal 2016-001398  
Application 13/623,335  
Technology Center 2400

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Before STEPHEN C. SIU, JAMES R. HUGHES, and ERIC S. FRAHM,  
*Administrative Patent Judges.*

SIU, *Administrative Patent Judge*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–7, 14–18, 20–23, 25, and 26. We have jurisdiction under 35 U.S.C. § 6(b).

The disclosed invention relates generally to identifying network traffic via stream fingerprint. Spec ¶¶ 13, 16. Independent claim 1 reads as follows:

1. A method comprising:  
receiving a stream of data packets at a stream fingerprint processor;  
determining a stream fingerprint based on characteristics of the stream of data packets, wherein the characteristics of the stream of data packets comprise an identification of an endpoint that was first to send an application level message in the stream of data packets; and

identifying an application associated with the stream based on the stream fingerprint.

The Examiner rejects claims 1–5, 7, 20, 22, 23, and 25 under 35 U.S.C. § 103(a) as unpatentable over Huang (US 8,631,106 B2, issued January 14, 2014) and Goldberg (US 6,816,455 B2, issued November 9, 2004); claim 6 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Starr (US 2006/0168281 A1, published July 27, 2006); claim 21 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Bodlaender (US 2003/0009588 A1, published January 9, 2003); claim 26 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Partridge (US 2003/0097595 A1, published May 22, 2003); claims 14, 16, and 17 under 35 U.S.C. § 103(a) as unpatentable over Goldberg and Baker (US 8,645,543 B2, issued February 4, 2014); claim 15 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Baker; and claim 18 under 35 U.S.C. § 103(a) as unpatentable over Goldberg, Baker, and Thomas (US 6,148,336, issued November 14, 2000).

#### ISSUE

Did the Examiner err in rejecting claims 1–7, 14–18, 20–23, 25, and 26?

#### ANALYSIS

Claim 1 recites determining a stream fingerprint based on an identification of an endpoint that was first to send an application level message in the stream of data packets. Claims 14 and 22 recite a similar feature.

Appellants argue that Goldberg fails to disclose or suggest “***an identification of an endpoint that was first to send an application level message in the stream of data packets.***” App. Br. 7. The Examiner finds that Goldberg discloses this feature. Final Act. 2–4, Ans. 3, 12–14 (citing Goldberg 11:34–65, 12:37–40). We disagree with the Examiner for at least the reasons set forth by Appellants. App. Br. 7; Reply Br. 2–4.

The Examiner finds that Goldberg discloses that “any of the missing parameters such as IP source address [or] IP destination address . . . will be determined based on the first IP packet of the stream” and that the “IP source and destination addresses in IP packets will indicate **both** endpoints including the endpoint which ‘was first to send’, since any stream will certainly include the first packet in the stream.” Ans. 13, 14 (citing Goldberg 11:52–54, 58–63, 12:35–40). Hence, the Examiner finds that Goldberg discloses that missing information may be determined based on the first *packet* of a data stream.

As Appellants indicate, the cited portions of Goldberg do not disclose that missing information may be determined based on the first packet of a data stream. Rather, Goldberg discloses that “the CPU . . . attempt[s] to ‘fill’” in the missing information “upon receipt of the first packet yielding a partial socket match.” Reply Br. 3; Goldberg 11:52–54. The Examiner does not indicate where Goldberg discloses that the “first packet yielding a partial socket match” is also the “first packet” received.

In any event, as Appellants state (Reply Br. 3–4), even assuming that the “first packet yielding a partial socket match” of Goldberg is also the “first packet” received, the Examiner does not demonstrate sufficiently that Goldberg (or any other cited reference) also discloses the identification of a first *endpoint* to send a message in the stream of packets, as recited in claim 1. Nor does the Examiner explain how the alleged receipt of a first *packet* (that yields a partial socket match) in Goldberg equates to the identification of a first *endpoint* (that sends a message), as recited in claim 1 or how one of skill in the art would have understood that a (first) endpoint (or computing device) is the same as a (first) data “packet.”

The Examiner does not indicate that any of Huang, Starr, Baker, Thomas, Bodlaender, or Partridge makes up for the deficiencies of Goldberg. Claims 2–7, 15–18, 20, 21, 23, 25, 26 depend from any of claims 1, 14, 22. The Examiner erred in rejecting claims 1–7, 14–18, 20–23, 25, and 26.

#### SUMMARY

We reverse the Examiner’s rejection of claims 1–5, 7, 20, 22, 23, and 25 under 35 U.S.C. § 103(a) as unpatentable over Huang and Goldberg; claim 6 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Starr; claim 21 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Bodlaender; claim 26 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Partridge; claims 14, 16, and 17

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under 35 U.S.C. § 103(a) as unpatentable over Goldberg and Baker; claim 15 under 35 U.S.C. § 103(a) as unpatentable over Huang, Goldberg, and Baker; and claim 18 under 35 U.S.C. § 103(a) as unpatentable over Goldberg, Baker, and Thomas.

REVERSED